

REMARKS

Claims are pending, 24-41, 75-90, and 121-145 are pending, with claims 24, 75, 123, and 141 being independent. Claims 1-23, 42-74, and 91-120 were previously cancelled without prejudice or disclaimer, and Applicant reserves the right to pursue these claims in this or related applications. By virtue of this response, claims 24, 30, 31, 33, 35, 39, 40, 41, 75, 79, 84-87, 89, 90, 123, 125, 129, 130, 137, 138, and 141 are amended as to matters of form. No new matter has been added.

The specification has been objected to in paragraph 3 of the Office Action for containing an embedded hyperlink in paragraph 26. In response, however, Applicant submits that this same objection was previously raised in the Office Action dated November 26, 2004, and was addressed in the response filed January 26, 2005 (copy of first page of response enclosed as Attachment A). Therefore, Applicant believes that this objection is improper, and requests that the objection be withdrawn.

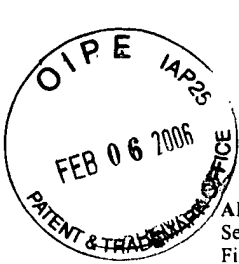
Claims 24-41, 75-90 and 121-141 are rejected under the judicially created doctrine of double patenting over claims 42-52 and 91-145 of U.S. Patent Application No. 09/945,099. Claims 24-41, 75-90 and 121-141 would be allowed provided that the Double Patenting rejections are overcome.

In response, Applicant respectfully submits that the above double-patenting rejections are improper, and requests that they be withdrawn, for the following reasons.

Application No. 09/173,853 (the '853 application) was filed on October 16, 1998 and titled Graphical Data Collection Interface. All of claims 1-120 of the '853 application were subject to a Restriction Requirement issued on December 14, 1999 (copy enclosed as Attachment B). In the Restriction Requirement, a three-way restriction was made between Groups I (claims 1-23 and 53-74), Group II (claims 24-41 and 75-90), and Group III (claims 91-120). Prosecution proceeded to issuance in the '853 application with the election of Group I. The claims of Group II were included in the present application, which was filed as a divisional of the '853 application. The claims of Group III were filed in another divisional of the '853 application, i.e., Application Serial No. 09/945,099 (the '099 application), which application, as noted above, is the basis of the present, provisional double-patenting rejection.

However, 35 U.S.C. 121 states that, “a patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application.” Thus, as stated in MPEP 804.01, 35 U.S.C. 121 provides a prohibition against use of divisional applications against one another in a double-patenting rejection, so that such “apparent nullification of double patenting as a ground of rejection or invalidity in such cases imposes a heavy burden on the Office to guard against erroneous requirements for restrictions where the claims define essentially the same invention in different language and which, if acquiesced in, might result in the issuance of several patents for the same invention.”

Thus, Applicant respectfully submits that the present double-patenting rejections based on the ‘099 application are improper, because the present application and the ‘099 application were both filed as divisional applications in response to a Restriction Requirement. Accordingly, Applicant requests that the rejections be withdrawn, and all of claims 24-41, 75-90, and 121-145 be allowed in the Examiner’s next official communication.



AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

Serial Number: 09/944,624

Filing Date: August 31, 2001

Title: GRAPHICAL DATA COLLECTION INTERFACE

Page 13
Dkt: 0006-003003


No fees are believed due. However, if necessary, please charge any fees, or credit any overpayment, to Deposit Account 50-3521.

The Examiner is invited to telephone Applicant's attorney (703-286-5735) to facilitate prosecution of this application.

Respectfully submitted,

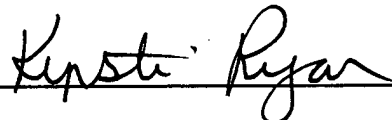
Brake Hughes PLC
Customer No. 53666
Phone 703-286-5735

Date February 3, 2006

By 
William G. Hughes
Reg. No. 46,112

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 3 day of 2006.


Name


Signature



1fr 274
PROP 98002D1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: *Knight, Timothy O.*) Art Unit: 2174
Serial No.: 09/944,624) Examiner: *Luu, Sy D*
Filed: 8/31/01)
For: *Interface and Programs Using Visual Data*)
Arrangements for Expressing User Preferences)
Concerning an Action or Transaction)

AMENDMENT A AND RESPONSE TO OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby submits the following in response to the Office Action mailed
November 26, 2004:

IN THE SPECIFICATION:

Please replace the text at page 8, ll.8-14 with the following:

-- FIG. 1 is a flow chart illustrating the basic operation of a data collection interface portion 100 of an application program incorporating the present invention. In a preferred embodiment the present interface is used by a stock portfolio managing program to elicit feedback and information concerning a user's motivations, opinions, reasonings, etc. for participating in a particular transaction - i.e., by either purchasing or selling a particular equity. ~~This program is entitled "TotalTrader" and can be obtained from visiting a website maintained by the assignee at www-dot-www.totaltrader.com.~~ --